



LEGAL DEPARTMENT
911 North 7th Avenue
P.O. Box 4169
Pocatello, Idaho 83205
(208) 234-6148
Fax: (208) 239-6986

A. DEAN TRANMER • City Attorney
NANCY A. FERRIS • Chief Deputy Attorney
KIRK BYBEE • Chief Civil Deputy
RICHARD A. DIEHL, JR. • Deputy City Attorney
STEPHEN F. HERZOG • Deputy City Attorney
DARCY L. TAYLOR • Assistant to City Attorney
CARA LEWIS • Prosecution Coordinator
SHEILA GUSTAVESON • Prosecution Assistant

RECEIVED

JAN 28 2008

January 24, 2008

DEPARTMENT OF
WATER RESOURCES

Dr

A

*Gay -
Plz acknowledge
this withdrawal.*

Dave

Dave Tuthill, Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Pocatello's 1996 Mitigation Plan

Dear Mr. Director:

In 1996 the City of Pocatello submitted a Mitigation Plan pursuant to the Department's Conjunctive Management Rules. To the best of our knowledge, Pocatello's plan was the first mitigation plan submitted in the State. Our records show that the Mitigation Plan was published, there were no objections filed, and the Department took no further action regarding the City's request to approve the Mitigation Plan.

As you know, in 2005, a consortium of surface water canal companies made a delivery call against wells in Water District 120 (the "Delivery Call"). The City has been an active participant in the Delivery Call since it commenced. A hearing on the Delivery Call has finally commenced. It seems likely that the procedures and possibly even the law will be clarified once the hearing on the Delivery Call is completed.

Given that the Mitigation Plan is now ten years old and outstanding but never formally approved, the City intends to revise its Mitigation Plan. To do so, the City is withdrawing its 1996 Mitigation Plan, effective immediately. When the dust settles on the Delivery Call, and the process, the law, and the effect on Pocatello are clear, the City will submit a new mitigation plan that is consistent with requirements at that time. In the interim, and without waiving any legal or factual arguments regarding the Department's methodologies to determine injury to senior water rights that the City might make at the Delivery Call hearing, the City remains committed to providing replacement water in the amounts called for by the Department under its Replacement Water Orders.

Because no final action was ever taken on the 1996 Mitigation Plan, we believe this informal course is sufficient for purposes of withdrawing the Plan; however, if you

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require a formal pleading to withdraw the Mitigation Plan, please let me know as soon as possible and we will submit the required documents.

Sincerely,

A handwritten signature in black ink that reads "A. Dean Tranmer". The signature is fluid and cursive, with a long horizontal stroke at the end.

A. Dean Tranmer
City Attorney

ADT/dt

cc: Mayor Roger Chase
Sarah Klahn, Esq.
Greg Sullivan, P.E.